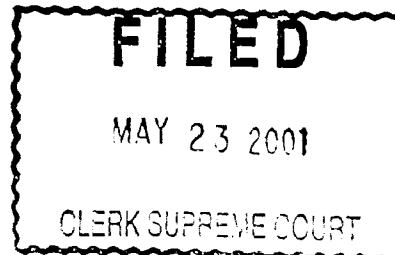


IN THE COURT OF APPEALS OF IOWA

No. 1-232 / 00-1214

Filed May 23, 2001



IN THE INTEREST OF

K.C.R.R.,
Minor Child,
vs.

J.A.R, Mother,
Appellant.

Appeal from the Iowa District Court for Woodbury County, Brian L. Michaelson, District Associate Judge.

Mother appeals from the termination of her parental rights. She contends the trial court erred in finding there was sufficient evidence to support the termination. **AFFIRMED.**

John S. Moeller of O'Brien, Galvin & Moeller, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Tabitha Gardner, Assistant Attorney General, and Dewey Sloan, Assistant County Attorney, for appellee-State.

Elizabeth Rosenbaum, Sioux City, for minor child.

Considered by Sackett, C.J., and Streit and Vogel, JJ.

PER CURIAM

J.R., mother of Katelynn, born September 14, 1999, appeals the termination of her parental rights. She contends that she was denied services as required under Iowa Code section 232.116(1)(c)(1997), that she was not given an opportunity to resume care under section 232.116(1)(d), and that the State failed to prove by clear and convincing evidence that 1) additional rehabilitation would not correct the problems which gave rise to the CINA adjudication under section 232.116(1)(f); that 2) Katelynn could not be returned to her custody as provided in section 232.116(1)(g); or that 3) J.R. has had a severe, chronic substance abuse problem, or even whether any prognosis indicates Katelynn will not be able to be returned to her mother's custody within a reasonable time under section 232.116(1)(k).

.. J.R., the mother of four children, has an extensive history with the Department of Human Services (DHS). In 1993 J.R. herself was found to be a child in need of assistance after her stepfather sexually abused her. That stepfather is now her husband and the father of her four children, including Katelynn. J.R. has an I.Q. of 63 and qualifies as mentally disabled. She is legally blind and therefore lacks a driver's license. Before Katelynn was born, J.R. and her husband/stepfather had three other children, all of them boys, born in 1995, 1996 and 1997. Due to J.R.'s apparent neglect of the boys, attempts at services, in the form of visits by a public health nurse, were initiated in December of 1997, followed by weekly family support worker visits, initiated in January of 1998. The children had been found unfed, dressed only in wet or dirty diapers. Two of her boys had diaper rash so severe the skin was broken down and

bleeding. One had severe eczema. Among the three of them they had bruises, burned feet, open sores on their bodies, and severe cold or congestion. In June of 1998 the boys were found to be children in need of assistance. Psychological testing of J.R. in September of 1998 strongly supported diagnoses including Major Depressive Disorder with Anxiety, Parent-Child Relational Problem, Partner Relational Problem, and Avoidant Personality Disorder Traits.

Services provided J.R. have been extensive. The September 1998 Case Permanency Plan provided J.R. with twice-weekly parental skill development assistance. After her three boys were placed in foster care, J.R. was given weekly visitation, first at the Crittendon Center and later at her home, with the goal of increasing visitation as J.R.'s parenting skills progressed. Provision was made in October of 1998 for J.R. to attend weekly skill development therapy, although she apparently refused to participate in it, believing her husband's and her own parenting skills were more than adequate. Furthermore, in February of 1999 DHS arranged for additional weekly supervised visits where J.R. could practice and demonstrate her parenting skills.

In spite of the services, J.R. did not make enough progress to maintain her parental rights. In a January of 1999 CASA report, there was concern that J.R. was not applying the parenting skills she was presumably learning from the provided services. During visits with their mother, the children reportedly played in the street. After visits had been extended to unsupervised overnight visits, the children were reported to have been poorly cared for and that little provision was made for appropriate feedings. Furthermore, it appeared that J.R. continued to

smoke around her oldest son, whose asthma made him highly sensitive to cigarette smoke.

Katelynn was born on September 14, 1999. On November 21, 1999, J.R.'s husband was arrested and charged with OWI as he drove himself and J.R. home from a bar. (Katelynn was at a neighbor's house at the time.) After attempting to resist her husband's arrest, J.R. was arrested for Interference with Official Acts and Failure to Obey a Police Officer. Following this incident, DHS obtained a removal order for Katelynn but was unable to locate her because J.R. had taken her to California to prevent DHS from taking custody of Katelynn. Katelynn, whose custody was transferred to DHS, was found a couple of weeks later and placed in a foster home. She was found to be a child in need of assistance in March of 2000.

.. J.R.'s visitation with Katelynn was reinstated in early 2000. She did not attend all of the scheduled visitations. Also at this time J.R. acknowledged that she no longer attended her therapy sessions because she believed she did not need to. Furthermore, beginning in mid-February, 2000, J.R. remained out of contact with the DHS despite its numerous and varied attempts to contact her. There is evidence J.R. was using alcohol to excess as well as illegal drugs. J.R.'s parental rights to Katelynn were terminated by the juvenile court on July 14, 2000.

We review proceedings to terminate parental rights *de novo* – we review the facts as well as the law and adjudicate parents' rights anew. *In re Dameron*, 306 N.W.2d 743, 745 (Iowa 1981). We give weight to the findings of the juvenile court, particularly with respect to the credibility of the witnesses, but are not

bound by them. *In re L.L.*, 459 N.W.2d 489, 493 (Iowa 1990). *In re R.R.K.*, 544 N.W.2d 274, 275 (Iowa Ct. App. 1995); Iowa R. App. P. 14(f)(7). When the juvenile court terminates parental rights on more than one statutory ground, we only need to find grounds to terminate parental rights under one of the Iowa Code sections cited by the juvenile court in order to affirm its ruling. *In re A.J.*, 553 N.W.2d 909, 911 (Iowa Ct. App. 1996).

Under Iowa Code section 232.116(1)(c), a court may terminate parental rights if the court has previously found a sibling of the current child to be a child in need of assistance, services were offered to the parents subsequent to that prior finding, and circumstances leading to the prior finding continue to exist. The State is required to make reasonable efforts to reunite the parent and child prior to termination. *In re C.L.H.*, 500 N.W.2d 449, 453 (Iowa Ct. App. 1993).

A parent's failure to comply with the case permanency plan established by DHS is an important factor in a termination hearing. See *In re M.Z.*, 481 N.W.2d 532, 536 (Iowa Ct. App. 1991). Attempts to provide J.R. with services have not proven to have a long-term beneficial effect. Some progress on the part of the parent in improving parenting skills is not enough. See *In re D.A.*, 506 N.W.2d 478, 479 (Iowa 1993).

We agree with the trial court's termination of J.R.'s parental rights to Katelynn. Evidence of past performance may be indicative of the quality of future care the parents are capable of providing. *Dameron*, 306 N.W.2d at 745. J.R. has not demonstrated that she has any long-term interest in learning and using basic parenting skills. Her children prior to Katelynn were suffering physically and emotionally from her neglect. Although J.R. has voiced interest in keeping

Katelynn, that interest is not manifest in her lifestyle. Knowing her rights to her children would hinge on her cooperative behavior, J.R. has hidden Katelynn in California, refused to attend therapy, skipped visitations, and has rejected contact with the DHS. We do not believe the future provision of services would prove productive.

Katelynn has been integrated into a foster home where one of her brothers also lives. Her foster mother has expressed interest in adopting both Katelynn and her brother. To continue to keep Katelynn in a foster home is not in her best interest. See *In Interest of B.K.G., Jr.*, 483 N.W.2d 608, 611 (Iowa Ct. App. 1992). As of the date of termination, Katelynn was developmentally on target and her needs were being met in her foster home, where she has lived for almost a year and a half. Katelynn's best interests will be served if the stable, nurturing foster home in which she now resides may become her actual home. For this reason it is in her interest that J.R.'s parental rights be terminated.

AFFIRMED.